IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Crl.Rev.Pet.No. 518 of 1998(A)

CRL.A.44/1994 OF IST ADDL. SESSIONS COURT, THIRUVANANTHAPURAM,
C.C.262/1991 OF JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL.

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REVN. PETITIONER/APPELLANT/ACCUSED:

RAJENDRAN, S/O. GOPALAKRISHNAN PILLAI,
PARAKULAMKUNNU BUNGLOW, THOTTAKKADU DESOM,
KARAVARAM VILLAGE.

BY ADV. SRI.G.GOPALAKRISHNAN NAIR,
SRI.R.BINDU (SASTHAMANGALAM).

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

Crl. R.P. No.518 of 1998

Dated 21st June, 2007

ORDER

The revision petitioner/accused stands convicted for the offence under section 326 IPC and sentenced to undergo R.I for one year and to pay a fine of Rs. 5000/- and in default to undergo to R.I for three months. The prosecution case is that on account of previous enmity towards the complainant as his son manhandled the father of the accused on the previous day, the accused attacked the de facto complainant on 18-11-1990 at 7.30 a.m with a chopper in front of the shop building of the de facto complainant and inflicted blows with the chopper as a result of which he sustained injury on the left forearm resulting in the fracture of the ulna.

2. The evidence adduced in the matter consisted of the testimony of PWs 1 to 7 and Exts.P1 to P6.

3. The counsel for the revision petitioner has stressed the glaring abnormality in the evidence adduced in the

matter with respect to the injury sustained in the morning at 7.30 and despite the fact that he sustained very serious injury, he reached the hospital only at 9.30 p.m although the FIS was lodged at 8.a.m i.e. immediately after the incident.

3. I find that it is seen from Ext.P3 discharge certificate issued from the Medical College Hospital that the fractured end of the ulna of the left forearm was exposed and injury is noted as comminuted compound fracture. As per Ext.P2 wound certificate and the evidence of the doctor, he was examined by the doctor on the same day at 9.30 p.m. It is virtually impossible in the normal case not to go to the hospital till 9.30 p.m which is about 14 hours subsequent to the sustaining of the injury. It is also pertinent to note that the FIR has reached the court after 2 days i.e. on 20-11-90 at 10-30 p.m. No explanation for the above delay was given. I find that both the above circumstances render the prosecution version much suspicious. I find that the court below has not considered

all those aspects in the case. In the circumstances, certainly the accused is entitled for the benefit of doubt. The decisions of the courts below are set aside. The accused is acquitted. .

The Crl.R P is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. 518 OF 1998

ORDER

21-6-2007.